

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
628 NORTH MAIN STREET
AUGUST 22, 2016
6:00 P.M.**

Staff Present: Harvey Krauss-City Manager; Stephen R. Cooper-City Attorney; Mary Myers-City Clerk; Brian Wright-Finance Director; Ken Martin-City Engineer/Public Works Director; Rus Ketcham-Library Director; Paul Anchondo-Parks and Recreation Director; Jon Vlaming-Community Development Director; Bill Pitman-Police Chief; Sylvia Payne-HR Director

I. CALL TO ORDER

Vice Mayor Powell called the meeting to order at approximately 6:00 p.m.

II. INVOCATION

Invocation was given by Eloy resident, Mr. Jim Harr.

III. PLEDGE OF ALLEGIANCE

Vice Mayor Powell led Council and the public in the Pledge of Allegiance.

IV. ROLL CALL

Council Members Present: Councilmember Andrew Rodriguez; Vice Mayor Micah Powell; Councilmember J.W. Tidwell; Councilmember Augustine Saucedo; Councilmember J.R. Nagy

Council Members Absent: Councilmember JoAnne Galindo (excused); Mayor Joel Belloc (excused)

V. COMMUNICATIONS

- Mr. Anchondo gave a brief update on the condition of the cemetery. He said a number of graves and headstones were sunken; and large amount debris washed up as a result of recent rains and flooding last week. Mr. Anchondo said the parks crew is working diligently back filling the graves and should have everything up to speed in 5 to 7 days.

- Councilmember Tidwell invited Council and staff to a ribbon cutting ceremony at the Eloy Jr. High, August 27th at 6:00 p.m. The Eloy Veterans Center will be presenting colors. Members of the Troy Thomas family will be in attendance to accept a plaque.
- Vice Mayor Powell informed the public that Mayor Belloc is not here tonight due to just being released from the hospital. Mayor Belloc had just returned from vacation Saturday when he became ill and had to be hospitalized. Vice Mayor Powell said the mayor has been released from the hospital and is on bed rest at this time.
- Vice Mayor Powell announced that today is Councilmember Galindo's birthday. He and the Council wished her a happy birthday.
- Vice Mayor Powell said several members of the Council and staff will be attending the annual League of Arizona Cities and Towns Conference in Scottsdale, August 23rd through the 26th. Councilmember Tidwell will be receiving a 12 year service award during an awards luncheon at the conference.
- Councilmember Rodriguez asked Mr. Krauss for an update on the Shedd Road street lights.

Mr. Krauss conveyed that staff will be bringing forward a proposal at the next meeting to present to Council for consideration.

- Ms. Natasha Tidwell, 520 W. Battaglia, invited Council and city staff to the Eloy Intermediate School annual 9/11 breakfast, September 8, at 7:30 p.m.
- Councilmember Tidwell invited Council and staff to an event sponsored by the Eloy Veteran Center to thank first responders, September 10, at 11:00 a.m.

VI. APPEARANCES FROM THE FLOOR

Mr. Logan Elia; Rose Law Group; 7144 E. Stetson Dr., Ste. 300; Scottsdale, AZ 85257

Mr. Elia conveyed that he represents the property owner, Zavala Property, LLC, applicant for agenda item IX-G. He just received the staff report which raises a few questions that he would like to review. He asked Council that this item be continued for consideration for approximately a month.

VII. EXECUTIVE SESSION

No Executive Session requested by Council or city staff.

VIII. CONSENT AGENDA

Agenda Item

Subject

- IX-A. Approval of Minutes: 8/8/16 (regular)
- IX-B. Acceptance of the Alsdorf Road Reconstruction Project and Authorize Final Payment to Markham Contracting, Inc.
- IX-C. Acceptance of the Street Reconstruction Project of Sunshine Boulevard on the south side of Interstate 10 adjacent to Flying J.
- IX-D. Authorize the Purchase of two Utility Service Trucks from Don Sanderson Ford for the Streets and the Water Divisions of Public Works.
- IX-E. Authorize an Annual Agreement with Pinal County Water Augmentation Authority (PCWUA) and Maricopa-Stanfield Irrigation and Drainage District for the Annual Groundwater Savings Project.

Motion by Councilmember Tidwell, seconded by Councilmember Saucedo to approve Consent Agenda items as presented, passed unanimously by roll call vote.

IX. BUSINESS

F. ADOPTION OF ORDINANCE NO. 16-856 AMENDING CHAPTER 2 OF THE ELOY CITY CODE ARTICLE VII, PROVIDING FOR DISPOSAL OF SURPLUS PROPERTY VALUED AT \$100 OR LESS WITHOUT A PUBLIC AUCTION.

Cover sheet discussion: *Council adopt Ordinance No. 16-856 approving an amendment to Section 2-141 B. of Chapter 2, Article VII of the City Code of Eloy, Arizona (Disposal of Surplus Supplies) allowing for the purchasing officer to dispose of any surplus supplies, materials and equipment valued at \$100 or less without a public auction.*

Currently, the city's purchasing policy requires all city property that is declared to be surplus must be sold at public auction regardless of value. As a result, the city has accumulated numerous items, such as old office chairs, non-functioning printers, computers, monitors, and other electronics, and many other minor items that have little or no value. The time and effort to set up a public auction, publicly advertise it as required by the city code, and conduct the auction for these small value items would have a very limited benefit to the city.

Staff is proposing that the purchasing policy be modified to allow for the disposal of items with little or no value without going to a public auction. Instead of an auction, the purchasing officer, who is the City Manager, would review a list of items proposed for disposal having a value of \$100 or less and allow for their disposal without a public auction. The proposed new language in the city code would be as follows:

At the discretion of the purchasing officer, any city owned supplies, materials, and equipment which have become obsolete, unfit, and unnecessary and are valued at \$100.00 or less may be disposed of without public auction. Items may be disposed of by charitable donation, by solid waste disposal, or by recycled waste disposal.

FISCAL IMPACT:

This amendment to the purchasing policy has no direct fiscal impact.

Mr. Krauss gave a brief overview of the proposed ordinance that would allow the purchasing officer (city manager) to dispose of city items valued at \$100 or less.

Vice Mayor Powell wanted to know who will determine the value of the items.

Mr. Krauss said he hasn't inventoried the items, but believes the department should make that determination.

Mr. Martin stated that public works have a large number of items that have accumulated over a period of time; many of them from other departments. Most items range from broken chairs, old scanners, old computers to fax machines that no longer work. He said the department is trying to make the most use of its building space.

Vice Mayor Powell liked Mr. Krauss' idea of donating some of the items to charitable organizations.

Councilmember Saucedo supported the proposed ordinance. He's worked for the elementary school district doing fixed assets and is well aware of how items that are no longer used by departments can pile up. Councilmember Saucedo said most of the items are things departments are never going to use.

Motion by Councilmember Tidwell, seconded by Councilmember Nagy to read Ordinance No. 16-858 by title only, passed unanimously.

Mrs. Myers read the title of Ordinance No. 16-858 into the record.

Motion by Councilmember Saucedo, seconded by Councilmember Tidwell to adopt Ordinance No. 16-858, passed unanimously by roll call vote.

- G. REQUEST TO ANNEX AN APPROXIMATE 13.90 ACRE PARCEL OF LAND (ASSESSOR PARCEL NUMBER 411-01-001C) LOCATED ON THE NORTH SIDE OF ALSDORF ROAD AND APPROXIMATELY ½ MILE WEST OF STATE ROUTE 87 FOR A PROPOSED MARIJUANA CULTIVATION FACILITY.**

Cover sheet discussion: Council direct staff to not file a blank annexation petition with the Pinal County Recorder for the 13.90 acre parcel of land generally located on the north side of Alsdorf Road and west of State Route 87 for a proposed marijuana cultivation facility.

The City has been approached by a private landowner (Zavala), represented by Rose Law Group, who is requesting that the City annex a 13.90-acre of land which is surrounded by the City's corporate limits on all four sides. Due to the fact that it is one parcel, the annexation meets the two tests: 1) it includes the owners of at least one-half of the value of the real and personal property; and, 2) the consent of more than one-half of the number of property owners in the territory to be annexed (as documented by the latest county assessor data). The completed petition must be filed with the Pinal County Recorder within one year after the last day of the thirty-day waiting period. In addition, the consent and action of the Eloy City Council is required.

The property has been used in the past as a vegetable cold storage facility, but is currently vacant. The existing buildings consist of an approximate 5,200 square foot office, 28,000 square foot warehouse and several shade canopies totaling approximately 30,000 square feet. There are also additional sheds and maintenance buildings on the site that total an additional 9,000 square feet. The existing County zoning of the property is Light Industrial (CI-1). It would be translated as Light Industrial (I-1) in the City-with its successful annexation. As such, the I-1 zoning allows marijuana cultivation facilities as a permitted use.

The existing future land use designation in the Pinal County Comprehensive Plan is light industrial, which is consistent with the future use of the property for a marijuana cultivation facility. The property is currently designated as Medium Density Residential in the City of Eloy General Plan, which is inconsistent with the past use of the property, but consistent with the surrounding planned and approved uses. The adjacent area to the north, east and west has been master planned with principally residential and other supportive uses as the Palmilla Master Planned Community. This property is owned by the Walton Group. The area to the south of Alsdorf Road is also designated for residential uses. As such, the Eloy Zoning Code identifies that if a Marijuana Cultivation Facility is located in the City; a one-quarter (1/4) mile (1,320 feet) minimum buffer of non-residential uses shall be located adjacent to, and surrounds, the Marijuana Cultivation Facility. City staff has not received any formal communication from the Walton Group as to their perspective on this proposed adjacent use. The applicant has preliminarily identified that a provision to remove the buffer requirement could be provided in a forthcoming Development Agreement (assuming City Council directs staff to file the blank petition). Using a development agreement as the vehicle to amend the City's land use regulations does not represent sound planning policy and would not be in the best interests of the City.

The City does not have any water or sewer lines located within the right-of-way of Alsdorf Road. The site has an existing well that is intended to be used as the water source. The site is served with septic systems currently.

Again, the applicant is proposing a medical marijuana cultivation and infusion facility on the subject property. The intent is to operate this facility as a secured indoor environment using hydroponic (water based) growing medium instead of soil. The applicant identifies that security of the facility will be addressed by a set of operating procedures adopted in compliance with state statute. The parcel fronts on Alsdorf Road so truck traffic has direct access to a paved and future arterial road. The Applicant indicates that the proposed use will not generate any noise, dust, odor, vapor, fumes or other nuisances.

STAFF FINDINGS:

The proposed parcel to be annexed meets the State's statutory requirements. It also would remove a county island. However, the fact that it will force an existing adjacent property owner to change a portion of their residential uses to non-residential uses as well as provide a sensitive use almost "by right" through the annexation approval is troubling for staff, due to the fact that the impacts (i.e. glare, noise, dust, vapor, fumes, etc.) have not been addressed. So, if Council directs staff to submit this blank petition, and if the property owner signs the petition within the year (highly likely) their permitted use can occur without any additional review or approval required by staff, the Planning & Zoning Commission or the City Council.

FISCAL IMPACT:

The proposed annexation would replace a vacant, developed property with a viable use that creates jobs, estimated at 12 to 18. Improvements would occur on the property, thus raising the valuation and property tax that would accrue to the City as well as construction sales tax-but is expected to be marginal with the existing structures to be utilized on the property. However, this sensitive use of the subject property could very well increase calls for service for our police and Fire District personnel to ensure this area and its workers and proximate existing and future residents remain safe.

Vice Mayor Powell reminded Council that this is the item Mr. Elia requested a continuance on for one month.

Motion by Councilmember Nagy, seconded by Councilmember Tidwell to continue this item to the September 26, 2016 meeting, passed unanimously.

H. APPROVAL OF CONTRACT CHANGE ORDER #1 FOR THE MONSANTO WATERLINE PROJECT TO FUND THE INCREASED COST OF PIPELINE BORING WORK REQUIRED BY THE U.S. BUREAU OF RECLAMATION.

Cover sheet discussion: *Council approve Contract Change Order #1 in the amount of \$183,375.52 for the Monsanto Water Line project to fund the increased cost of pipeline boring work required by the U.S. Bureau of Reclamation.*

This change order is the result of required changes in construction costs and quantities of the boring work which is under the CAIDD pipeline that are being crossed by the Monsanto Waterline.

The initial discussions with the engineers that consult for the U.S. Bureau of Reclamation (USBR) required that each of the crossings be bored and extended 20 feet on each side of the irrigation pipelines. This requirement was estimated at a cost of approximately \$100,000.00

This work was to be paid from the \$55,000 that was added to the initial contract award as well as from the owner's allowance that was also included in the bid. This would have prevented any change orders being necessary.

When the construction drawings' comments were received from the engineer reviewing the plans for USBR, the requirements had changed to require that each boring site be installed from the boundaries of the USBR right-of-way (ROW), which is a minimum of 100 feet or longer for each location. This increased the total cost to nearly \$300,000.

After discussing this requirement with the USBR engineers and the general manager of CAIDD, the required lengths of the borings were reduced to 55 feet, 55 feet, and 140 feet (required to bore under 2 adjacent pipelines). The additional cost of the boring work is \$183,375.52. The detailed costs of this change order are attached.

FISCAL IMPACT:

The Monsanto Waterline Project is funded by Monsanto, and they have agreed to fund the cost of this change order which is \$183,375.52.

Mr. Martin said when the bid was awarded at a prior council meeting, he told Council that Monsanto would pay for the entire cost of the project and there would be no change orders for this project because of the amount of money put in

contingency. He said he was wrong for making the statement and apologized to Council.

Vice Mayor Powell thanked Mr. Martin for his apology.

Mr. Martin gave an overview of the change order request. He said the change order was discussed with Monsanto and they have added the necessary funding to the escrow account to pay for the change order.

Councilmember Tidwell wanted to know when USBR changed the requirement of the expanded underground boring of the waterline.

Mr. Martin said plans were sent to USBR based upon the information that staff had of the boring and encasement requirements. USBR came back to staff mid July with a report citing a number of things. That is when staff was first faced with the issue of having the boring go the full width of the right-of-way, plus 10 feet on each side. He immediately contacted the contractor and sub-contractor to obtain a cost for doing the boring work in compliance with USBR requirements. Mr. Martin voiced that the initial cost was over \$300,000; but was able to negotiate the price down to \$183,375.52.

Councilmember Tidwell asked if this was a requirement prior to July 11th.

Mr. Martin said he it may have been a requirement before July 11th; however it was not what staff was told that it was. Staff didn't receive the information about it being a requirement until after that.

Councilmember Tidwell wanted to know why Council wasn't given any documents showing the city was not at fault for this change order.

Mr. Martin said he failed to include the notes with the agenda item; however would be happy to provide Council with the notes, if so desired.

Councilmember Nagy suggested providing the documents to Councilmember Tidwell to distribute to Council.

Mr. Martin agreed to provide the documents to Councilmember Tidwell.

Vice Mayor Powell clarified that Monsanto will pay for the change order and that the city will not bear any of the cost.

Mr. Martin said this is correct; Monsanto has already deposited the funds in the escrow account.

Councilmember Tidwell wanted to know who reviewed and approved the plans.

Mr. Martin conveyed Monsanto originally reviewed and approved the plans. Monsanto approached the city about the plans which were about 80% complete and asked staff to administer the project.

Motion by Councilmember Tidwell, seconded by Councilmember Rodriguez to approve contract change order #1 for the Monsanto Waterline Project to fund the increased cost of pipeline boring work required by the U.S. Bureau of Reclamation, passed unanimously by roll call vote.

X. INFORMATIONAL ITEMS

Eloy Chamber of Commerce 2nd Quarter Report – Mr. Mark Benner, Executive Director of the Eloy Chamber of Commerce reviewed and answered questions from Council about the quarterly report. Mr. Benner spoke specifically about the Chambers efforts to fill vacant buildings on Main Street by touring the buildings with prospective buyers.

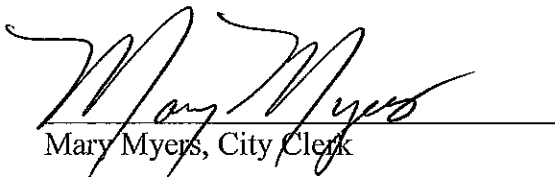
XI. ADJOURNMENT

There being no further business, Vice Mayor Powell adjourned the meeting at approximately 6:54 p.m.



Joel G. Belloc, Mayor

ATTEST:


Mary Myers, City Clerk